

Albany  
Atlanta  
Brussels  
Denver  
Los Angeles

# McKenna Long & Aldridge<sup>LLP</sup>

Attorneys at Law

1900 K Street, NW • Washington, DC 20006-1108  
Tel: 202.496.7500 • Fax: 202.496.7756  
www.mckenalong.com

New York  
Philadelphia  
Sacramento  
San Diego  
San Francisco  
Washington, D.C.

CHARLES R. SPIES

EMAIL ADDRESS

June 5, 2009

**VIA HAND DELIVERY**

Jeff S. Jordan, Esq.  
Supervisory Attorney  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Rec'd DGC  
JUN 09 2009  
10:38pm

**Re: MUR 6190 / Respondents Daniel Byrne, Molly Nowak,  
and Katherine Scudder**

Dear Mr. Jordan:

On behalf of Daniel Byrne, Molly Nowak and Katherine Scudder (collectively "Respondents"), this letter is submitted in response to the complaint filed by their estranged brother-in-law David Bearden ("Complainant"), alleging violations of the Federal Election Campaign Act (the "Act") and now labeled MUR 6190. The allegations in the Complaint are baseless and retaliatory, and the Commission should decline to take further action and close this matter.

**Factual Background**

The Respondents are all siblings of Kelly Bearden, who is in the midst of contentious divorce proceeding with her now estranged husband, David Bearden, the Complainant. In March of 2008, the Respondents' sister Kelly filed for divorce against Complainant, and now, in apparent response to recent legal allegations against, and investigations of, Complainant in the course of his divorce proceedings, Complainant has retaliated by lodging vague - and false - claims of campaign contribution reimbursements in this complaint to the Commission.

Each of the Respondents is involved in the community and has a personal history of making contributions to political candidates and charitable organizations that they personally believe in. See Affidavits of Daniel Byrne, Molly Nowak, and Katherine Scudder (collectively "Affidavits") at #2. All political contributions made by Respondents have been made with their own personal funds, from a bank account in their own name (or a joint bank account with his or her spouse). See Affidavits at #3. Respondents have never been reimbursed, directly or indirectly, for any political contribution that they have made. See Affidavits at #4. Specifically, Respondents were not reimbursed by their father, Norman Byrne, for any of their contributions

29044253810

Jeff S. Jordan, Esq.  
June 5, 2009  
Page 2

to the McCain for President campaign. See Affidavit of Daniel Byrne at #6; Affidavits of Molly Nowak and Katherine Scudder at #5.

### **Legal Analysis**

The Complaint alleges, without any factual support, that Respondents violated the Act by having their contributions to the McCain for President campaign reimbursed by their father, Norman Byrne. However, Respondents flatly and comprehensively dispute, in sworn affidavits, Complainant's assertion that their political contributions were reimbursed, or that they have committed any sort of violation of the Act or Commission Regulations.

Although the disgruntled Complainant alleges what would be a serious violation of 2 U.S.C. § 441(f) and 11 C.F.R. 110.4(b)(2007), the allegation is not credible and should not be treated as such by the Commission. Complainant does not claim to have first-hand knowledge of any violations of the Act, instead he asserts vague third-hand knowledge. In fact, all parties who would have first-hand knowledge if the alleged contribution reimbursements had taken place have, in sworn affidavits, flatly and completely disputed Complainant's allegations. This lack of first-hand knowledge or evidence, when combined with Complainant's malicious and retaliatory motivations, mean that his allegations should be afforded no weight at all by the Commission.

In addition, a complaint filed with the Commission should be accompanied by documentation supporting the facts alleged, See 11 C.F.R. § 111.4 (d)(4), and in this case there is no relevant evidence or documentation supporting the allegations. The documentation provided by Complainant that allegedly "evidences illegal conduct," Complaint at 3, is in fact just a listing of contributions made by members of the Byrne family. The fact that contributions from several Byrne family members were made "on the same exact day," *Id.*, [emphasis in original], is evidence only of the fact that family members attended the same fundraising events and turned in contributions at the same time. That information is superfluous to the allegation that such contributions were reimbursed and not sufficient to meet the standard of 11 C.F.R. § 111.4 (d)(4).

### **Conclusion**

The Complaint fails to present any reason to believe that Respondents committed any violation of the Act or Commission Regulations. The clear purpose of this Complaint is retaliatory harassment of the family of a party to contentious divorce proceedings, and consequently this complaint is an obvious and flagrant misuse of the Commission's complaint process. The Commission should not tolerate such abuse of the Commission's valuable time and resources, and Respondents therefore respectfully request that the Commission dismiss this Complaint and take no further action.

29044253811

Jeff S. Jordan, Esq.  
June 5, 2009  
Page 3

Thank you for your consideration in this matter.

Very truly yours,



Charles R. Spies\*

Counsel to Daniel Byrne, Molly Nowak  
and Katherine Scudder

\*Admitted only in Virginia  
Supervision by Stefan Passantino  
a member of the DC Bar.

Enclosures:

Designations of Counsel for D. Byrne, M. Nowak and K. Scudder.

29044255812

Albany  
Atlanta  
Brussels  
Denver  
Los Angeles

**McKenna Long  
& Aldridge**  
Attorneys at Law

1900 K Street, NW • Washington, DC 20006  
Tel: 202.498.7500 • Fax: 202.498.7758  
www.mckennalong.com

New York  
Philadelphia  
San Diego  
San Francisco  
Washington, DC

**CHARLES R. SPIES**

EMAIL ADDRESS

VIA FACSIMILE (202) 219-3923

**BEFORE THE FEDERAL ELECTION COMMISSION  
STATEMENT OF DESIGNATION OF COUNSEL**

**MUR # 6190**

**Name of Counsel:** Charles R. Spies  
McKenna Long & Aldridge LLP  
1900 K Street, NW  
Washington, DC 20006

**Telephone:**

**Fax:** (202) 498-7758

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5/24/09  
Date

  
Respondent/Client Signature

Title

**Respondent/Client:** Mr. Daniel P. Byrne

Lowell, MI 49331

**Telephone - Home:**

**Business:**

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

DC:50623928.1

29044255813

Albany  
Atlanta  
Brussels  
Denver  
Los Angeles

**McKenna Long  
& Aldridge<sup>LLP</sup>**  
Attorneys at Law

1900 K Street, NW • Washington, DC 20006  
Tel: 202.496.7500 • Fax: 202.496.7756  
www.mckennalong.com

New York  
Philadelphia  
San Diego  
San Francisco  
Washington, DC

CHARLES R. SPIES

EMAIL ADDRESS

VIA FACSIMILE (202) 219-3923

**BEFORE THE FEDERAL ELECTION COMMISSION  
STATEMENT OF DESIGNATION OF COUNSEL**

**MUR # 6190**

**Name of Counsel:** Charles R. Spies  
McKenna Long & Aldridge<sup>LLP</sup>  
1900 K Street, NW  
Washington, DC 20006

**Telephone:** \_\_\_\_\_  
**Fax:** (202) 496-7756

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5/24/09  
Date

Molly M. Nowak  
Respondent/Client Signature

\_\_\_\_\_  
Title

**Respondent/Client:** Ms. Molly M. Nowak  
Ada, MI 49301

**Telephone - Home:**

**Business:**

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

DC-50623931.1

29044253814

Albany  
Atlanta  
Brussels  
Denver  
Los Angeles

**McKenna Long  
& Aldridge**  
Attorneys at Law

1900 K Street, NW • Washington, DC 20006  
Tel: 202.498.7500 • Fax: 202.498.7758  
www.mckennalong.com

New York  
Philadelphia  
San Diego  
San Francisco  
Washington, DC

CHARLES R. SPIES

EMAIL ADDRESS

VIA FACSIMILE (202) 219-3923

**BEFORE THE FEDERAL ELECTION COMMISSION  
STATEMENT OF DESIGNATION OF COUNSEL**

**MUR # 6190**

**Name of Counsel:** Charles R. Spies  
McKenna Long & Aldridge LLP  
1900 K Street, NW  
Washington, DC 20006

**Telephone:** \_\_\_\_\_  
**Fax:** (202) 496-7756

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5/26/09  
Date

Katherine Scudder  
Respondent/Client Signature

\_\_\_\_\_  
Title

**Respondent/Client:** Ms. Katherine Scudder  
Ada, MI 49301

**Telephone - Home:**

**Business:**

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

DC:50623930.1

29044253815